

TITLE 5, CALIFORNIA CODE OF REGULATIONS

CALIFORNIA STATE BOARD OF EDUCATION

NOTICE OF PROPOSED RULEMAKING

Dispute Resolution Regarding Facilities for Charter Schools

March 15, 2002

The State Board of Education (State Board) proposes to adopt the regulation described below after considering all comments, objections, or recommendations regarding the proposed action.

PROPOSED REGULATORY ACTION

The State Board proposes to amend Section 11969.9 of Title 5 of the California Code of Regulations, providing guidance on dispute resolution regarding facilities for charter schools.

PUBLIC HEARING

The State Board will hold a public hearing starting at 11:00 a.m. on Thursday, May 30, 2002 at 721 Capitol Mall, Room 166. The room is wheelchair accessible. At the hearing, any person may present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest. The State Board requests that any person desiring to present statements or arguments orally notify the agency of such intent. No oral statements will be accepted subsequent to this public hearing.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the State Board. All written comments must be received no later than the close of the public hearing scheduled to start at 11:00 a.m. on May 30, 2002. Requests to present oral statements at the public hearing or written comments for the State Board's consideration should be directed to:

Pat McGinnis, Regulations Adoption Coordinator
California Department of Education
721 Capitol Mall, Room 552
P. O. Box 944272
Sacramento, California 94244-2720
Telephone: (916) 657-4669; FAX number: (916) 657-3844
E-mail: pmcginni@cde.ca.gov

AUTHORITY AND REFERENCE

Authority for the proposed regulation is provided in Education Code section 47614(b). Education Code section 47614(b) states that the State Board may adopt regulations implementing subdivision (b). The regulations may define the procedures and establish timelines for the request for, reimbursement for, and provision of, facilities.

The reference for the proposed regulation is Education Code section 47614.

INFORMATIVE DIGEST AND POLICY STATEMENT OVERVIEW

Proposition 39, enacted by the voters on November 7, 2000, changed the required majority for local voter approval of public school and community college general obligation bonds from two-thirds to fifty-five percent of the votes. It also amended Education Code section 47614, imposing a new requirement that school districts provide facilities to charter schools that serve at least 80 in-district students. Facilities must be sufficient to accommodate the charter school's in-district students in conditions reasonably equivalent to the conditions in facilities that students in district-operated schools attend. For use of the facilities, school districts may charge charter schools no more than a pro-rata share of district facilities costs paid from unrestricted general fund revenues.

At its December 2001 meeting, the State Board approved a Notice of Proposed Rulemaking for proposed regulations that implement the requirements in Education Code section 47614. These proposed regulations (Article 3 [Sections 11969.1 through 11969.9], Subchapter 19, Chapter 11, Division 1 of Title 5 of the California Code of Regulations) define terms, establish procedures and timelines, and set reimbursement rates for over-allocated space. The proposed regulations approved at the December meeting do not, however, include procedures for resolving disputes between school districts and charter schools regarding the implementation of Education Code section 47614.

The proposed regulation that is the subject of this Notice of Proposed Rulemaking would amend the procedures and timelines section of the previously proposed regulations (Section 11969.9) to add two new subdivisions regarding dispute resolution.

DISCLOSURES REGARDING THE PROPOSED ACTION

Mandate on local agencies and school districts: None

Cost or savings to any state agency: None

Cost to any local agency or school district that must be reimbursed in accordance with Government Code section 17561: None

Other non-discretionary cost or savings imposed upon local agencies: None

Cost or savings in federal funding to the state: None

Cost impact on representative private person or business: The State Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Impact on Business: The State Board has made an initial determination that the proposed regulatory changes will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

Significant effect on housing costs: The State Board has made an initial determination that the proposed regulatory action would not affect housing costs.

Effect on small business: None, because these regulations are directed to local educational agencies which are not small businesses.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5(a)(13), the State Board must determine that no reasonable alternative considered by the State Board or that has otherwise been identified and brought to the attention of the State Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

The purpose of the proposed regulation is to provide guidance on dispute resolution regarding facilities for charter schools. The State Board does not believe that existing law absent this regulation achieves that objective. Moreover, the State Board has been unable to identify any alternative to the proposed regulation that achieves the objective. The State Board invites interested persons to present statements or arguments regarding alternatives to the proposed regulation at the above-mentioned hearing or during the written comment period.

ASSESSMENT REGARDING CREATION OR ELIMINATION OF JOBS IN CALIFORNIA

The State Board has made an assessment and determined that the adoption of the proposed regulation will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

CONTACT PERSONS

Inquiries concerning the substance of the proposed action should be directed to:

Carol Bingham
School Fiscal Services Division

California Department of Education
560 J Street, Suite 150
P. O. Box 944272
Sacramento, California 94244-2720
(916) 324-4728

Requests for a copy of the proposed text of the regulation, the initial statement of reasons, the modified text of the regulation, if any, or other technical information upon which the rulemaking is based should be directed to:

Pat McGinnis, Regulations Adoption Coordinator
California Department of Education
721 Capitol Mall, Room 552
P. O. Box 944272
Sacramento, California 94244-2720
Telephone: (916) 657-4669; FAX number: (916) 657-3844

Or: Debra Strain, Regulations Analyst
Telephone: (916) 657-2453; FAX number: (916) 657-3844

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Regulation Adoption Coordinator will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at her office, at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulation, and the initial statement of reasons. A copy may be obtained by contacting the Regulation Adoption Coordinator at the address or telephone number listed above or accessing the California Department of Education's website at <http://www.cde.ca.gov/regulations>. Upon its completion, the Final Statement of Reasons will be available and copies may be requested from the Audit Response Coordinator or viewed on the website.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

Following the public hearing, the State Board may adopt the proposed regulation substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the modified text, with changes clearly indicated, will be made available to the public for at least 15 days prior to the date on which the State Board adopts the regulation. Requests for copies of any modified regulation should be sent to the attention of the Regulation Adoption Coordinator at the address indicated above. The State Board will accept written comments on the modified regulation for 15 days after the date on which it is made available.